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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF NEVADA**

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11 FRANCISCO VILLAS COMMUNITY
12 ASSOCIATION, a Nevada Nonprofit
13 Cooperative Corporation Without Stock,

14 Plaintiff,
15 vs.

16 XL SPECIALTY INSURANCE COMPANY, a
17 Delaware corporation,

18 Defendants.

Case No.: 2:14-cv-00372-JAD-VCF

THE PARTIES JOINT MOTION
FOR AN ORDER TO STAY
PROCEEDINGS PENDING
COMPLETION OF VOLUNTARY
MEDIATION

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20 Plaintiff FRANCISCO VILLAS COMMUNITY ASSOCIATION (hereinafter “Francisco
21 Villas”) and Defendant XL SPECIALTY INSURANCE COMPANY (hereinafter “XL”), by
22 their respective counsel of record, hereby join in moving the Court for an order to stay further
23 proceedings in this matter pending a private party mediation, which is scheduled for May 15,
24 2014.

25 **POINTS AND AUTHORITIES**

26 Plaintiff, Francisco Villas, is a homeowners association which purchased Commercial
27 General Commercial Insurance with Defendant XL. On January 17, 2014, plaintiff filed the
28

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1 declaratory relief action against XL seeking declarations that the policy covers damage which
2 occurred to the homeowners condominium foundations and structures between 09/27/2011
3 through 09/27/2012. It appears that a water main below the surface of the ground broke
4 releasing mass amounts of water under the foundations of the condominium project which
5 caused subsidence and resultant damage to the condominium buildings.
6

7 XL believes that there were provisions of the policy which excluded coverage for some
8 or all of the damage incurred. Plaintiff on the other hand, insists that the interpretation of the
9 policy would justify coverage.

10 After serving the Complaint herein, the parties had some preliminary discussions which
11 indicate that common ground might be reached in resolving the matter at an early stage. Thus,
12 they agreed to hold a mediation with Joseph Bongiovi on May 15, 2014 in an attempt to resolve
13 the underlying dispute. The complaint, answer and counterclaim have been filed by the parties.
14 Statements of interested parties have also been filed along with the statement concerning the
15 removal of this action from state to federal court. Francisco Villas has yet to file a reply to the
16 counterclaim; nor have the parties met to draft a Discovery Plan/Scheduling Order to the court.
17 Moreover, no discovery has been undertaken other than the initial evaluations done by engineers
18 and adjusters.
19

20 The parties believe that the matter could in fact be resolved by good faith mediation and
21 resolution of the underlying claims. If so this litigation could be either dismissed, or resolved by
22 a very limited discovery and motions.
23

24 Therefore the parties jointly request that the court grant a brief stay in this matter until
25 Tuesday, June 10, 2014 -- approximately seventy-five (75) judicial days -- in which to undertake
26 any further pleading or discovery. If the matter is resolved by mediation the court will be
27 presented with a stipulation for dismissal. If the matter is not settled, the parties will by June 10,
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2014 present the Court their final pleadings, participate in a F.R.C.P. 26(f) conference and submit their proposed Discovery Plan/Scheduling Report with potential limitations on discovery to be undertaken and shorten dates for the presentation of motions dealing with the interpretation of the policy.

It is the policy of the federal courts to encourage the "just, speedy, and inexpensive determination" of every civil matter. See F.R.C.P. 1; see also *Brown Shoe Co. v. U.S.*, 370 U.S. 294, 306 (1962) (U.S. Supreme Court heard the just, speedy and inexpensive goals as the "touchstones of federal procedure"). Litigants have an obligation to the court to refrain from conduct that frustrates the aims of Rule 1. *Hill v. McMillan McGraw-Hill Sch. Publ'g Co.*, 1995 WL 317054 (N.D. Cal 1995).

The parties have done a thorough analysis of the policy exclusions, exceptions, and coverage issues. Plaintiff has also indicated that it needs a few weeks to analyze its damage claims and will provide to XL a thorough breakdown with particularization of the claimed damages and repairs in order to assist a mediator in understanding the issues involved. XL will provide a good faith response to the Plaintiff's damage claims within ten (10) days after receiving the demand from Plaintiff's counsel.

Therefore the parties respectfully request that the court impose a brief stay in this matter until June 10, 2014 in order to allow the parties to mediate and potentially resolve the case.

DATED this 27th day of March, 2014.

**CHRISTIAN, KRAVITZ, DICHTER, JOHNSON &
SLUGA, LLC**

/s/ Martin J. Kravitz, Esq.

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*Attorneys for Defendant,
XL SPECIALITY INSURANCE COMPANY*

1 DATED this 27th day of March, 2014.
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4 LAW OFFICES OF STEVEN J. PARSONS
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6

7 /s/ Steven J. Parsons, Esq.
8

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15 **ORDER**
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17 IT IS SO ORDERED.
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19 Dated: March 31, 2014.
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23 **U.S. DISTRICT/MAGISTRATE JUDGE**
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